IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 13689 of 2004

Between:

1. P. Suresh Kumar Reddy,

S/o. Subramanyam Reddy,
R/o. Thummuru Village, Naidupet Mandal,
Nellore District.
2. Shaik Shabber,

S/o. Khaja Rahmathulla,
R/o. Rajagopalpuram, Naidupet Mandal,
Nellore District.

..... PETITIONERS

AND

1. The Joint Collector,

Nellore, Nellore District.
2 The Mandal Revenue Officer,

Naidupet Mandal, Naidupet,

Nellore District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ or direction declaring the order of the first respondent passed in Rc.B1.391/2004 dated 30-7-2004 in imposing the condition of furnishing full bank guarantee for release of the lorries and initiating an enquiry under Section 6-A of Essential Commodities Act 1955 as illegal, arbitrary

and without jurisdiction and consequently direct the respondents to release the vehicles bearing No.A H H 3474 and AP 16 T-7666 in favour of petitioners, and pass such other orders.

Counsel for the Petitioner: MR.P.GANGA RAMI REDDY

Counsel for the Respondents1 & 2: G.P. FOR CIVIL SUPPLIES

The Court made the following:

ORDER:

The petitioners 1 and 2 are the owners of the lorries bearing Nos. A H H 3474 and AP 16T 7666, respectively. It is stated that they have purchased the said lorries under hire purchase agreement and that the vehicles are being used to transport paddy and rice within the State. The case of the petitioners is that one Shaik Nagur Basha engaged the lorries for transporting rice to Naidupeta from Gottikadu village. While so, during transit, the Sub-Inspector of Police, Naidupeta Police Station, seized the lorries and rice on the ground that the rice meant for 'food for work' is being transported to Chennai without any valid documents. The lorries have been kept under the custody of the second respondent-Mandal Revenue Officer, Naidupet. Thereafter, proceedings under Section 6-A of Essential Commodities Act, 1955 (for short 'the Act') have been initiated. The petitioners made a petition before the first respondent-Joint Collector, Nellore, stating that they have nothing to do with the alleged diversion of rice meant for 'food for work' scheme and that they are only transporting the rice on hire basis and sought for release of the vehicles. The first respondent by order, dated 30-07-2004 ordered the release of lorries on furnishing full bank guarantee for the value of the seized rice stocks as well as personal security bonds from each lorry owner. Aggrieved by the same, this Writ Petition is filed.

Heard the learned counsel for the petitioners and the learned Government Pleader for Civil Supplies appearing for the respondents.

It is to be noted that on behalf of the respondents counter affidavit has been filed by the Joint Collector, Nellore, stating that SGRY rice was diverted from MLS point, APSCSC Limited, Venkatagiri, in connivance with the Fair Price Shop dealer, Gottikadu village, Balayapalli Mandal of Nellore District. It is further stated that the rice is required to be transported to the Fair Price Shop dealer, Gottikadu village by the transport contractors, MLS Point, APSCSC Limited, Venkatagiri, but the Fair Price Shop dealer, Gottikadu village arranged the lorries from Naidupet. It is also stated that the in-charge of the MLS point, Venktagiri, irregularly allowed the Fair Price Shop dealer, Gottikadu village to arrange the lorries for transportation of SGRY rice without obtaining necessary permission either from the District Manager, APSCSC Limited, Nellore, or the Mandal Revenue Officer, Balayapalli Mandal. It is also alleged that the lorry owners had full knowledge about the illegal transportation of SGRY rice and therefore, the first respondent has rightly directed to furnish bank guarantee for the entire value of the seized stocks.

The learned counsel for the petitioners has placed reliance upon an Order passed by this Court in W.P.No.5184 of 2003 dated 26-03-2003 and contended that since nothing has been brought on record to establish the involvement of the petitioners, it would be appropriate to release the vehicles without stipulating any condition as to the bank guarantee.

On a perusal of the material on record, it is clear that though in the counter affidavit filed by the respondents it is stated that the Fair Price Shop dealer is involved in this matter, nothing has been mentioned as to the action initiated against the said Fair Price Shop dealer. It is also relevant to note that as on today no material is available to show that the petitioners, who are the owners of the lorries, had any knowledge of the alleged offence. At any rate, since the enquiry is pending before the first respondent, it is for the first respondent to conduct necessary enquiry and to pass appropriate orders with regard to the guilt of the persons involved, in which event necessary steps can be taken in accordance with the provisions of law. However pending such enquiry, having regard to the facts and circumstances of the case, I am of the view that the ends of justice would be met if the vehicles in question are released on the petitioners furnishing third party security to the value of the seized stock in addition to the undertaking that they will not alienate the lorries and produce the same as and when required.

Accordingly, the order impugned dated 30-07-2004 to the extent of directing the petitioners to furnish bank guarantee to the value of the seized stock is set aside and the Writ Petition is disposed of with a direction to the respondents to release the lorries in question on the petitioners furnishing third party security to the value of the seized stock to the satisfaction of the 1st respondent–Joint Collector, Nellore, and also an undertaking to the effect that they shall not alienate the lorries in question during the pendency of the proceedings under Section 6-A of the Act, and they will also produce the same before the 1st respondent as and when required for the purpose of enquiry. It is made clear that the release of the lorries in question shall be subject to the outcome of the proceedings pending before the 1st respondent under Section 6-A of the Act.

Writ Petition is accordingly disposed of. No costs.

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G. ROHINI, J

25th August, 2004.

lsn/Gbs

To

1. The Joint Collector,

Nellore, Nellore District.

2 The Mandal Revenue Officer,

Naidupet Mandal, Naidupet,

Nellore District.

3. Two CCs to G.P. for Civil Supplies, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.